
OLR Bill Analysis

sHB 5029

AN ACT CONCERNING SEXUAL ASSAULT, STALKING AND INTIMATE PARTNER VIOLENCE ON CAMPUS.

SUMMARY:

By law, public and independent higher education institutions must adopt and disclose one or more policies on sexual assault and intimate partner violence. Institutions must also offer sexual assault and intimate partner violence primary prevention and awareness programming and campaigns.

This bill expands the scope of the policies and prevention and awareness programming by requiring that they apply to (1) stalking and (2) institutions' employees. It (1) requires institutions, after a reported incident, to immediately provide concise written notification to each victim regarding his or her rights and options under the institution's policy or policies and (2) allows institutions to permit anonymous reporting, to the extent permitted by state or federal law.

The bill requires institutions to report annually to the Higher Education Committee concerning their policies, prevention and awareness programming and campaigns, and the number of incidents and disciplinary cases involving sexual assault, stalking, and intimate partner violence. It also requires institutions to include information about stalking and family violence in their annual uniform campus crime reports.

The bill (1) requires institutions to establish a campus response team to review their policies and develop protocols for providing support and services to students and employees who report being victims and (2) establishes membership and training requirements for the team. It establishes additional training requirements for the institution's Title IX coordinator, campus security personnel, and special police force (or

members of the state or local police who respond to campus incidents).

The bill requires each institution to enter into a memorandum of understanding (MOU) with at least one community-based sexual assault crisis service center and one community-based domestic violence agency. The MOU must (1) establish a partnership with the service and agency and (2) ensure that victims can access free and confidential counseling and advocacy services, either on or off campus.

Lastly, the bill makes technical changes.

EFFECTIVE DATE: July 1, 2014

§ 2 — INSTITUTION POLICIES

By law, each public and independent higher education institution must adopt one or more policies concerning sexual assault and intimate partner violence. The policies must include provisions for (1) providing information to students about their options for assistance if they are victims of such violence, (2) disciplinary procedures, and (3) possible sanctions. Institutions must include the policies in their uniform campus crime report, which is produced annually and available on request to students, employees, and applicants for admission.

The bill expands the policies' scope by requiring that they also apply to (1) stalking and (2) institutions' employees. Under current law, stalking is addressed by the policies only in the context of intimate partner violence, which is limited to harm against an individual by a current or former spouse or by a partner in a dating relationship. The bill specifies that the institutions' policies apply to incidences of sexual assault, stalking, and intimate partner violence wherever they occur (i.e., on or off campus). It also specifies that the policies apply to people who report or disclose being a victim. Under current law, they apply only to people who report being a victim.

The bill allows higher education institutions to permit victims to report or disclose incidents anonymously, as long as maintaining confidentiality does not violate state or federal law. The institution

must notify the victim of its obligations under state or federal law, if any, to investigate the (1) alleged sexual assault, stalking, or intimate partner violence and (2) victim's identity (see BACKGROUND).

Under current law, an institution's disciplinary proceedings must be conducted by an official trained in issues relating to sexual assault and intimate partner violence. The bill requires that this training be annual and that it also include stalking.

Information Provided to Victims

By law, institutions' policies must have a provision for giving contact information for and, if requested, professional assistance in accessing and using campus, local advocacy, counseling, health, and mental health services. The bill specifies that the contact information must be concise and in writing. By law, the policies must also provide written information about a victim's rights to (1) notify law enforcement and receive assistance from campus authorities in making the notification and (2) obtain a protective order, apply for a temporary restraining order, or seek enforcement of an existing order. The bill specifies that this information must be concise and written in plain language.

The bill requires higher education institutions to provide concise notification, written in plain language, to each student and employee who has been the victim of sexual assault, stalking, or intimate partner violence regarding his or her rights and options under the institution's policy or policies. The institution must provide this notification immediately upon receiving a report of the incident. In addition to the rights listed above, the victim's rights and options under existing law include, among other things, reasonably available opportunities to change academic, living, campus transportation, or working situations.

§ 2 — PREVENTION AND AWARENESS PROGRAMMING

By law, higher education institutions must offer, within existing budgetary resources (1) sexual assault and intimate partner violence primary prevention and awareness programming for all students and (2) ongoing prevention and awareness campaigns. The bill:

1. requires that the programming and campaigns also address stalking;
2. requires the programming to be provided (a) annually and (b) to all employees, and not just students as under current law;
3. eliminates a requirement that the programming address risk reduction; and
4. eliminates the requirement that the programming and campaigns be within existing budgetary resources.

It also specifies that the programming must include strategies for bystander intervention. (Current law requires that the programming address bystander intervention, without a reference to strategies.) The bill defines “bystander intervention” as the act of challenging social norms that support, condone, or permit sexual assault, stalking, and intimate partner violence.

§§ 1 & 2 — REPORTING

§ 2 — *Annual Report to Higher Education Committee*

The bill requires public and independent higher education institutions, annually beginning January 1, 2015, to submit a report to the Higher Education Committee that includes, for the immediately preceding academic year, the following information concerning sexual assault, stalking, and intimate partner violence:

1. a copy of the institution’s (a) most recently adopted policies and (b) most recent concise written notification of a victim’s rights and options under these policies;
2. the number and type of prevention and awareness programs and campaigns at the institution;
3. the number of students and employees who received services from, or participated in, these programs and campaigns;
4. the number of incidents reported to the Title IX coordinator (under federal law, each institution receiving federal student aid

must designate a Title IX coordinator);

5. the number of confidential or anonymous reports or disclosures;
and
6. the number of disciplinary cases and the final outcome of these cases, including the outcome of any appeals.

§ 1 — Uniform Campus Crime Reports

By law, each public and independent higher education institution must publish, annually by September 1, a uniform campus crime report and make it available on request to students, employees, and applicants for admission. The report must include information about certain crimes committed in the immediately preceding calendar year within the geographical limits of property the institution owns or controls. The bill requires the report to additionally include information about incidences of (1) 1st, 2nd, and 3rd degree stalking and (2) family violence (which includes various crimes committed against a family or household member).

§ 3 — CAMPUS RESPONSE TEAM

Membership

The bill requires each higher education institution to establish a trained campus response team for each of its campuses by January 1, 2015. The institution's president selects the team members, who must include the institution's Title IX coordinator and chief student affairs officer and, to the extent they exist on campus, at least one representative from the institution's: (1) administration, (2) counseling services office, (3) health services office, (4) women's center, (5) special police force or campus security personnel, (6) faculty, (7) senior and mid-level staff, (8) student body, (9) residential life office, and (10) judicial hearing board.

The team must also include at least one representative from (1) a community-based sexual assault crisis service center; (2) a community-based domestic violence agency; and (3) the criminal justice system in the institution's judicial district, including state and local police and

state prosecutors. The team may also include any other members designated by the institution's president.

Required Training

The bill requires the institution to ensure that each team member receives training in the following areas:

1. the awareness and prevention of sexual assault, stalking, and intimate partner violence;
2. communicating with and providing assistance to students or employees who are victims;
3. the institution's sexual assault, stalking, and intimate partner violence policies;
4. the provisions of (a) Title IX of the federal Elementary and Secondary Education Act of 1972 (Title IX) and (b) the federal Clery Act (see BACKGROUND);
5. victim-centered response and the role of community-based sexual assault victim advocates;
6. the role and function of each team member in ensuring a coordinated response to reports of sexual assault, stalking, and intimate partner violence; and
7. communicating sensitively and compassionately with victims, including an awareness of responding or providing services to, or assisting in locating services for, victims from diverse cultural backgrounds.

The bill defines "victim-centered response" as a systematic focus on a victim's needs and concerns that (1) ensures services are delivered in a compassionate, sensitive, nonjudgmental manner; (2) ensures an understanding of how trauma affects victim behavior; (3) maintains victim safety, privacy and, where possible, confidentiality; and (4) recognizes that victims are not responsible for the assault, stalking, or violence committed against them.

Duties

The bill requires the campus response team, by July 1, 2015, to (1) review the institution's sexual assault, stalking, and intimate partner violence policies and (2) develop protocols for providing support and services to students and employees who report being victims. The team must meet at least once a semester to review the protocols and ensure that they are updated as necessary.

§ 5 — ADDITIONAL TRAINING REQUIREMENTS

The bill requires each higher education institution to ensure that its Title IX coordinator and campus security personnel receive training in the awareness and prevention of sexual assault, stalking, and intimate partner violence. The institution must also coordinate or assist in coordinating this awareness and prevention training, and training in trauma-informed response, for (1) its special police force or (2) members of the State Police and local police departments who act as first responders to reports of sexual assault, stalking, or intimate partner violence at the institution.

The bill defines "trauma-informed response" as one that understands the complexities of sexual assault, stalking, and intimate partner violence through training centered on (1) the neurobiological impact of trauma, (2) the influence of societal myths and stereotypes surrounding trauma's causes and impact, (3) understanding perpetrators' behavior, and (4) conducting an effective investigation on behalf of trauma victims.

§ 4 — MEMORANDA OF UNDERSTANDING

The bill requires each higher education institution, by January 1, 2015, to enter into an MOU with at least one community-based sexual assault crisis service center and one community-based domestic violence agency. The MOUs must (1) establish a partnership with the service and agency and (2) ensure that a student or employee who reports or discloses being a victim of sexual assault, stalking, or intimate partner violence can access free and confidential counseling and advocacy services, either on or off campus.

The partnership must include (1) involvement of the institution's campus response team and (2) training between the institution and service center and agency to (a) understand each other's role in responding to reports and disclosures of sexual assault, stalking, and intimate partner violence against students and employees and (b) the institution's protocols for providing support and services to such students and employees.

BACKGROUND

Confidential or Anonymous Reporting

The U.S. Department of Education's Office of Civil Rights (OCR) enforces federal laws and regulations concerning sexual harassment (which includes sexual violence) in higher education institutions. In an April 2011 "Dear Colleague" letter (an official statement of department policy), OCR stated that institutions should evaluate a sexual harassment victim's request for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Factors the institution may consider include the seriousness of the alleged harassment, the victim's age, whether the alleged perpetrator has been the subject of other harassment complaints, and the alleged perpetrator's due process rights. The institution should inform the victim if it cannot ensure confidentiality.

Title IX

Title IX (20 USC § 1681 et seq.) prohibits discrimination on the basis of sex by any institution that receives federal student aid (e.g., Pell grants and student loans). Under Title IX, sexual harassment (which includes sexual violence) is a form of sex discrimination.

Clery Act

The federal Clery Act (20 USC § 1092(f)) requires institutions that receive federal student aid to, among other things, adopt and disclose policy statements that address several campus safety-related issues. One of these statements must specifically address the institution's sexual offense policy, procedures, and programs. The Clery Act also requires institutions to annually report several crime statistics to the

U.S. Department of Education.

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/13/2014)